

## ARTICLE 11

### Subdivision Application Procedures

#### § 250-4 General procedures. Pre-application meetings

~~Classification of a proposed project as either a minor or major subdivision shall be made by the Code Enforcement Officer, subject to Planning Board approval, at the time of the initial application submission. Once the project is so classified, the applicant shall follow the applicable procedures in SS 250-6 or 250-7. The preapplication conference step, ss 250-5, is recommended but not mandatory for minor subdivisions. A copy of the required application form is included as Appendix A of this chapter. The subdivision review fee schedule is established by order of the Town Council. Outside consulting fees shall be charged in accordance with Chapter 315, Zoning, ss 315-81.~~

#### .1 Pre-application meeting with Town Planner and Code Enforcement Officer.

Prior to submission of a subdivision application, applicants shall arrange a pre-application conference with the Town Planner and Code Enforcement Officer. A proposed plan shall be provided by the applicant which shows the original parcel to be subdivided and the number of lots and road design proposed for the subdivision. At the conclusion of this meeting, the Code Enforcement Officer shall classify the proposed project as either a minor or major subdivision.

#### .2 Pre-application meeting with Planning Board.

Following the pre-application conference with the Town Planner and the Code Enforcement Officer, the applicant shall appear before the Planning Board to discuss the subdivision style that would be best suited to the physical characteristics of the parcel being developed.

#### 250-5. Determination of Subdivision Style by Planning Board.

##### (a) Proposed Subdivision Style Options in RR I and RR 2 Zoning Districts.

- .1 The following subdivision styles may be considered by the developer based on the zoning district in which the proposed subdivision will be located.
- .2 If the proposed subdivision is located in either the Rural Residential 1 (RR1) or Rural Residential 2 (RR 2) zoning district, there are two types of design permitted: Conservation and Traditional.
- .3 The Conservation style subdivision is the preferred option for the Town of Cumberland, however, if a developer would like to propose a traditional style subdivision then both a traditional and conservation style project

shall be submitted to the Planning Board for consideration. The two plans shall show all natural features of the property, such as topography, wetlands, watercourses and water bodies, adequate septic system locations (if applicable), steep slopes, open fields, wooded areas, etc. The Board shall then determine which type of subdivision best suits the property in relation to the natural features of the land, adjacent properties and neighborhoods, and the characteristics of open space to be maintained, if applicable. The plan shall also depict how the road(s), lots and stormwater management system, and open space (if any) would be laid out in each option.

- .4 The Planning Board will notify abutters within 500 feet of the proposed subdivision of the meeting date, location and time. The Planning Board will hold a public hearing to solicit public comments on the proposed plan options after which the Board will make a determination on which plan should be selected for development.
- .5 The applicant shall be given a decision at the meeting as to what type of development is most appropriate or be told what additional information is necessary for the Board to make a decision. The Board shall specify in writing its decision within 10 days of the meeting.
- .6 The type of subdivision development approved by the Board shall not be changed unless the Board finds that unforeseen circumstances require the decision to be altered.
- .7 The acceptance of a sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

**(b) Proposed Subdivision Style Options in Zoning Districts other than RR 1 and RR 2.**

- .1 If the proposed development is located in any zoning district other than the RR1 or RR2, two development styles are available: Clustered or Traditional.
- .2 The Clustered style subdivision is the preferred option for the Town of Cumberland, however, if a developer would like to propose a traditional style subdivision then both a Clustered and traditional style project shall be submitted to the Planning Board for consideration. The two plans shall show all natural features of the property, such as topography, wetlands, watercourses, steep slopes, open fields, wooded areas, etc. The Board shall then determine which type of subdivision best suits the property in relation to the natural features of the land, adjacent properties and neighborhoods, and the characteristics of open space to be maintained, if applicable. The plan shall also depict how the road(s), lots and stormwater

management system, and open space (if any) would be laid out in each option. The plan shall also depict how the road(s), lots and stormwater management system and open space (if any) would be laid out in each option.

- .3 The Planning Board will hold a public hearing to solicit public comments on the proposed plan options after which it will make a determination on which plan should be selected for development.
- .4 The Planning Board will notify abutters within 500 feet of the proposed subdivision of the meeting date, location and time. The Planning Board will hold a public hearing to solicit public comments on the proposed plan options after which it will make a determination on which plan should be selected for development.
- .5 The applicant shall be given a decision at the meeting as to what type of development is most appropriate or be told what additional information is necessary for the Board to make a decision. The Board shall specify in writing its decision within 10 days of the meeting.
- .6 The type of subdivision development approved by the Board shall not be changed unless the Board finds that unforeseen circumstances require the decision to be altered.
- .7 The acceptance of a ~~sketch plan~~ subdivision design style shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. § 302.

#### **C. Application Fees, Consulting Fees and Application Forms.**

- .1 The subdivision review fee schedule is established by order of the Town Council.
- .2 Outside consulting fees shall be charged in accordance with Chapter 315, Zoning, § 315-81.
- .3 Appendix B should be completed for a proposed (major or minor) **Conservation Style** Subdivision.
- .4 Appendix C should be completed for a proposed **Minor** Traditional or Clustered style subdivision.
- .5 Appendix D should be completed for a proposed **Major** Traditional or Clustered style subdivision.

## § 250-6. Review and approval of plan for MINOR, Clustered or Traditional subdivision.

### A. Procedures.

Review and approval of a plan for a minor, clustered or traditional subdivision shall be a one-step process whereby the Planning Board shall grant final approval for a project at the time that all ordinance requirements have been met. There shall be no preliminary approval step.

### B. Submission requirements. Minor clustered or traditional subdivision plan submissions shall conform to the standards and requirements contained in Appendix B of this chapter.

(1) An application for a minor clustered or traditional subdivision shall consist of a cover letter describing the nature of the project, a completed application form, the appropriate submission requirements ~~checklist~~, and, if necessary, a letter listing any waivers from the submission requirements. The applicant shall submit an electronic version of all required plans and materials listed in the application submission checklist. In addition, one full size paper copy of all required plans and of all materials listed in the application submission checklist shall be provided to the Town Planner. These items shall be submitted to the Town Planner at least 21 days prior to the meeting at which it is to be considered and shall be accompanied by the fee, which is established by order of the Town Council. ~~If the application is found to be deficient, any additional information must be submitted no later 14 days prior to the meeting at which it is to be considered.~~

(2) The Town Planner shall then determine whether the application is complete or incomplete and shall notify the applicant of the determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Planner shall list the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Town Planner shall notify the applicant and the application will be placed on the next Planning Board agenda for which the required 21 day notice can be met. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.

(3) The Planning Board shall, within 45 days from the date that the application is determined to be complete, or within such other time that may be mutually agreed to by both the Planning Board and the applicant, hold a public hearing and then vote to either table, approve, approve with conditions, or disapprove the ~~final~~ plan. The Planning Board shall specify in writing its decision and findings of fact regarding the decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Town Planner's files.

~~(4) The Planning Board, at its discretion, may hold a public hearing regarding any proposed minor subdivision within 30 days of the determination of application completeness.~~

C. ~~Final plan~~ Plan approval and filing.

(1) Upon completion of the requirements above and approval of the ~~final~~ plan, the ~~final~~ plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Cumberland County Registry of Deeds.

(2) Approval of any subdivision plan not filed for recording within 90 days after final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan. The developer shall provide the Town Planner with the plan book number and page number upon recording of the subdivision plan.

(3) This approval is dependent upon and limited to the proposals and plans contained in the application, and supporting documents submitted by the applicant, and all statements made by the applicant to the Planning Board. Any variation from the plans, proposals, supporting documents and statements, except minor field changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

[Added 2-25-2013]

D. Performance guarantees.

(a) The purpose of a performance guarantee is to secure the completion of all required improvements or the restoration of the site as the Town deems appropriate.

(b) Prior to plan approval, or as a condition of plan approval, the applicant shall provide a construction schedule and cost estimate for all required improvements to the Town Planner. Required improvements include, but are not limited to, street and utility construction, stormwater management, landscaping, erosion control, and monumentation. The Town Planner shall submit the cost estimate to the Town Engineer and Town Manager for review and approval. Once the amount for the performance guarantee is set, the applicant shall provide a performance guarantee in one of the following acceptable forms:

[1] An escrow account funded by cash or a certified check payable to the Town of Cumberland and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable to the Town Manager. Any interest earned on the escrowed funds shall be retained by the Town.

[2] An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable to the Town Manager that provides at least 60 days' written notification of expiration. The terms and conditions shall include a maximum two-year time limit and an inflation clause.

[3] Any other performance guarantee reviewed by the Town Attorney as to form that provides security in an amount substantially equivalent to an escrow account or an irrevocable letter of credit.

(c) In the event that a final plan is to be divided into two or more phases, the performance guarantee may be provided in an amount commensurate with the level of improvement to be undertaken in the section or sections to be filed with the Registry of Deeds and may defer the remaining required amount(s) until the remaining sections of the proposed subdivision are ready for filing with the Registry of Deeds. The terms and conditions of the performance

guarantee for each phase shall include a maximum two-year time limit and an inflation clause.

(d) Completion of required improvements shall be determined by the Town Manager, who shall receive written certification from the Town Engineer that all improvements assured by the performance guarantee have been constructed in conformance with the final plan and all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil engineer that all permanent boundary markers or monuments have been installed and are accurately in place in the locations designated in the final plan.

(e) The performance guarantee may, in the discretion of the Town Manager, provide for a partial release of the performance guarantee amount as specific portions of the required improvements are completed.

## § 250-7. Review and approval of plan for a **MAJOR, clustered or traditional** subdivision.

A. Review and approval of a plan for a major, clustered or traditional subdivision shall be a two-step process whereby the Planning Board shall grant preliminary then final approval for a project. This approval may be given at one meeting when deemed appropriate by the Board.

### B. Preliminary Plan Procedures

(1) An application for a major clustered or traditional subdivision shall consist of a cover letter describing the nature of the project, a completed application form, the appropriate submission requirements checklist, and, if necessary, a letter listing any waivers from the submission requirements. The applicant shall submit an electronic version of all required plans and materials listed in the application submission checklist. In addition, one full size paper copy of all required plans and of all materials listed in the application submission checklist shall be provided to the Town Planner. These items shall be submitted to the Town Planner at least 21 days prior to the meeting at which it is to be considered and shall be accompanied by the fee, which is established by order of the Town Council. ~~If the application is found to be deficient, any additional information must be submitted no later 14 days prior to the meeting at which it is to be considered.~~

(2) Submission requirements. Major Clustered or Traditional Subdivision Plan submissions shall conform to the standards and requirements contained in Appendix C of this chapter.

(3) The Town Planner shall then determine whether the application is complete or incomplete and shall notify the applicant of the determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Planner shall list the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Town Planner shall notify the applicant and the application will be placed on the next Planning Board agenda for which the required 21 day notice can be met. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.

(4) The Planning Board shall, within 45 days from the date that the application is determined to be complete, or within such other time that may be mutually agreed to by both the Planning Board and the applicant, hold a public hearing and then vote to either table, approve, approve with conditions, or disapprove the preliminary final plan. The Planning Board shall specify in writing its decision and findings of fact regarding the decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Town Planner's files.

(5) Preliminary plan approval shall not constitute approval of the final plan but rather shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to preparation of the final plan.

### **C. Final plan procedures.**

(1) Final plan submission. Final plan submissions shall conform to the standards and requirements contained in **Appendix D** of this chapter

(2) An application for final plan approval and a completed application checklist shall be submitted to the Town planner within 180 days after preliminary plan approval and at least 21 days prior to the meeting at which it is to be considered. The applicant shall submit an electronic version of all required plans and materials listed in the application submission checklist. In addition, one full size paper copy of all required plans and of all materials listed in the application submission checklist shall be provided to the Town Planner. ~~If the application is found to be deficient, any additional information must be submitted no later 14 days prior to the meeting at which it is to be considered.~~

(3) Prior to submission of the final plan application, the subdivider shall have fulfilled the following requirements:

(a) DEP Approval.

Written approval shall be secured by the Maine Department of Environmental Protection, if the proposed subdivision is subject to review by said Department;

(b) Water Supply

The proposed water supply system shall be approved in writing by the Water District if existing public water service is to be used or by the Maine Department of Health and Human Services if a central water supply system is proposed;

(c) Sewer Capacity

Allocation of sewer user units by the appropriate municipal agency shall be secured if said units are required for the proposed subdivision, and the proposed sewage disposal system shall conform to § **250-29** of this chapter;

~~(d)~~

~~A solid waste disposal plan shall be prepared, if deemed necessary by the Planning Board during the preliminary plan review process; and~~

~~(e)~~

~~The proposed surface drainage plan or stormwater management plan and the proposed soil erosion and sediment control plan shall be endorsed in writing by the Cumberland County Soil~~



~~and Water Conservation District. The soils report shall also be reviewed in writing by the Cumberland County Soil and Water Conservation District.~~

(4) The Town Planner shall determine whether the final application is complete or incomplete and shall notify the applicant of the determination in writing within 30 days of the date that the receipt is issued. If determined to be incomplete, the Town Planner shall list the materials that must be submitted in order to make the application complete. When the application is determined to be complete, the Town Planner shall notify the applicant and the application will be placed on the next Planning Board agenda for which the required 21 day notice can be met. Any application not determined to be complete within 180 days of the issued receipt date shall become null and void.

(5) Public Hearing

A public hearing may be scheduled by the Planning Board within 30 days after the date of the final plan is determined to be complete, with adequate notice given to the general public.

(6) Phasing

Prior to the final plan approval, the Planning Board may grant approval to permit the plan to be divided into two or more sections and may impose such conditions upon the phases as it deems necessary to ensure the orderly development of the subdivision. Each phase shall be reviewed by the Planning Board both as a potentially independent subdivision and as a section of the total subdivision. Each phase shall constitute at least 25% of the total number of lots contained in the approved final plan.

(7) Performance guarantees.

(a) The purpose of a performance guarantee is to secure the completion of all required improvements or the restoration of the site as the Town deems appropriate.

(b) Prior to final plan approval, or as a condition of final plan approval, the applicant shall provide a construction schedule and cost estimate for all required improvements to the Town Planner. Required improvements include, but are not limited to, street and utility construction, stormwater management, landscaping, erosion control, and monumentation. The Town Planner shall submit the cost estimate to the Town Engineer and Town Manager for review and approval. Once the amount for the performance guarantee is set, the applicant shall provide a performance guarantee in one of the following acceptable forms:

[1] An escrow account funded by cash or a certified check payable to the Town of Cumberland and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable to the Town Manager. Any interest earned on the escrowed funds shall be retained by the Town.

[2] An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable to the Town Manager that provides at least 60 days' written notification of expiration. The terms and conditions shall include a maximum two-year time limit and an inflation clause.

[3] Any other performance guarantee reviewed by the Town Attorney as to form that provides security in an amount substantially equivalent to an escrow account or an irrevocable letter of credit.



(c) In the event that a final plan is to be divided into two or more phases, the performance guarantee may be provided in an amount commensurate with the level of improvement to be undertaken in the section or sections to be filed with the Registry of Deeds and may defer the remaining required amount(s) until the remaining sections of the proposed subdivision are ready for filing with the Registry of Deeds. The terms and conditions of the performance guarantee for each phase shall include a maximum two-year time limit and an inflation clause.

(d) Completion of required improvements shall be determined by the Town Manager, who shall receive written certification from the Town Engineer that all improvements assured by the performance guarantee have been constructed in conformance with the final plan and all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil engineer that all permanent boundary markers or monuments have been installed and are accurately in place in the locations designated in the final plan.

(e) The performance guarantee may, in the discretion of the Town Manager, provide for a partial release of the performance guarantee amount as specific portions of the required improvements are completed.

(8) Upon completion of the requirements above and approval of the final plan, the final plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Cumberland County Registry of Deeds.

(9) Approval of any subdivision plan not filed for recording within 90 days after final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan. The developer shall provide the Town Planner with the plan book number and page number upon recording of the subdivision plan.

(10) This approval is dependent upon and limited to the proposals and plans contained in the application, and supporting documents submitted by the applicant, and all statements made by the applicant to the Planning Board. Any variation from the plans, proposals, supporting documents and statements, except minor field changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board prior to implementation.

[Added 2-25-2013]

(11) The Planning Board shall, within 60 days after the date that the final plan is determined to be complete, or within such other time limit that may be mutually agreed to by both the Planning Board and the applicant, approve, approve with conditions or disapprove the final plan. The Planning Board shall specify in writing its findings of fact and the Board's decision. A separate copy of the written decision and findings of fact shall be maintained apart from the Planning Board minutes and stored in the Town Planner's files. The Planning Board at its discretion may require annotations to be placed directly on the final plan.

(12) This sixty-day time limit may be extended once by 30 days, by the Planning Board, if the Board determines that additional information needs to be secured by the subdivider or the Planning Board.

F. Final plan approval and recording.

(1) Upon completion of the requirements above and approval of the final plan, the final plan shall be signed by a majority of the voting members of the Planning Board and shall be filed by the applicant with the Town Planner.

(2) The performance bond or irrevocable letter of credit, with the terms and conditions previously set by the Planning Board, shall be filed with the Town Manager before the final plan is released for recording by the developer at his expense with the Cumberland County Registry of Deeds.

3. Electronic auto cad files shall be required prior to plan recording and filing in a format and version specified by the town.

(4) Approval of any subdivision plan not filed for recording within 90 days after final plan approval shall become null and void. A note referencing this time provision shall be placed upon the final plan. The developer shall provide the Town Planner with the plan book number and page number upon recording of the subdivision plan.

## **Amendment to Appendix B (Conservation Subdivision Submission Requirements)**

An application for a conservation subdivision shall include the following additional information:

**(1) Site Inventory and Analysis. map.** The applicant must submit a site inventory and analysis ~~map~~ plan to ensure the important site features have been adequately identified prior to the creation of the site design, and the proposed open space will meet all requirements. The ~~map~~ plan must include the following features:

- (a) Property boundaries;
- (b) All streams, rivers, lakes, wetlands, vernal pools and other hydrologic features;
- (c) Topographic contours of no less than 10-foot intervals;
- (d) All primary and secondary conservation areas labeled by type, as described in Section 6.2.4. of this ordinance;
- (e) General vegetation characteristics;
- (f) General soil types;
- (g) The planned location of protected open space;
- (h) Existing roads and structures;
- (i) Potential connections with existing green space and trails; and
- (j) Beginning with Habitat program criteria assessment.

**(2) Open space management plan.** An open space management plan, as described in Section 250-1.Q.9.b must be prepared and submitted to the Planning Board for acceptance prior to final approval.

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**(3) (2) Instrument of permanent protection.** An instrument of permanent protection as described in Section 250-1.Q.9.a, such as a conservation easement or permanent restrictive covenant, must be accepted by the Planning Board prior to final approval.